IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 6864 of 2007(P)

PETITIONER:

ABRAHAM.C.M., S/O.MATHAI,
CHUNDKUZHIYIL HOUSE, KULPPARACHAL P.O.,
POOPARA, IDUKKI DISTRICT.

BY ADV. SRI.N.K.SUBRAMANIAN
SRI.S.ANANTHAKRISHNAN

RESPONDENTS:
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1. KERALA STATE FINANCIAL CORPORATION,
REPRESENTED BY ITS BRANCH MANAGER,
KATTAPPANA BRANCH, KATTAPPANA, IDUKKI DISTRICT.

2. C.M.JOSE, S/O.MATHAI,
CHUNDUKUZHIYIL HOUSE, KULAPPARACHAL P.O.,
POOPARA, IDUKKI DISTRICT.

3. C.M.VARGHESE ALIAS MATHAI VARGHESE,
S/O.MATHAI, CHUNDAKUZHIYIL HOUSE,
KULAPPARACHAL P.O., POOPARA, IDUKKI DISTRICT.

BY GOVT.PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL.B.RADHAKRISHNAN.J

W.P(C) No. 6864 of 2007

Dated this the 1st day of March 2007

JUDGMENT

Petitioner and respondents 2 and 3 are the children of late. Mathai. Respondents 2 and 3 executed Ext.P3 in favour of their father as regards whatever rights they had over the item of property. That item of land is Government land, as part of forest. By Ext.P4 their father is shown to have executed an unregistered will in favour of the petitioner and respondents 2 to 3. The 2nd respondent provided that property as a security to the Kerala Financial Corporation and obtained a loan. Under Section 29 of the State Financial Corporation Act proceedings have been initiated and the property is now been put to sale. According to the petitioner, he and respondents 2 and 3 are the co-owners of the property and that having regard to Exts. P3 and P4 the impugned proceedings cannot affect anything at least to the extent of the petitioner's share. It is also pointed out that being a forest land it may not be available for the KFC to proceed against that property in accordance with law relating to the dealings with forest land.

2. As of now Ext.P1 and P1(a) will show that the Government had issued pattayam in favour of the second respondent in 1999, long after Exts P3 and P4. In so far as government lands are concerned, Patta confers title. Whatever that be the statutory rights of the KFC under section 29 of the S.F.C Act cannot be interdicted at the instance of the petitioner's case . Even if the sale is conducted under section 29 that would be subject to other laws and liabilities which would have governed to property at the time of it being offered to the KFC as security. However those are not matters that could be considered at the instance of the petitioner, who cannot claim any independent right to the property for which Exts P1 and P1(a) are issued in 1999.

3. In the result, this writ petition fails . It is accordingly dismissed.

THOTTATHIL.B.RADHAKRISHNAN.JUDGE

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